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9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 OSWALDO DE JESUS MIRAMONTES-  
DIAZ, et al.,

16 Defendants.  
17

No. SA CR 15-038-JLS

PLEA AGREEMENT FOR DEFENDANT  
OSWALDO DE JESUS MIRAMONTES-DIAZ

18  
19 1. This constitutes the plea agreement between OSWALDO DE  
20 JESUS MIRAMONTES-DIAZ ("defendant") and the United States Attorney's  
21 Office for the Central District of California (the "USAO") in the  
22 above-captioned case. This agreement is limited to the USAO and  
23 cannot bind any other federal, state, local, or foreign prosecuting,  
24 enforcement, administrative, or regulatory authorities.

25 DEFENDANT'S OBLIGATIONS

26 2. Defendant agrees to:

27 a. At the earliest opportunity requested by the USAO and  
28 provided by the Court, appear and plead guilty to count one of the

1 indictment in United States v. Oswaldo de Jesus Miramontes-Diaz, et  
2 al., CR No. SA CR 15-038-JLS, which charges defendant with Conspiracy  
3 to Distribute over five kilograms of Cocaine in violation of 21  
4 U.S.C. § 846.

5 b. Not contest facts agreed to in this agreement.

6 c. Abide by all agreements regarding sentencing contained  
7 in this agreement.

8 d. Appear for all court appearances, surrender as ordered  
9 for service of sentence, obey all conditions of any bond, and obey  
10 any other ongoing court order in this matter.

11 e. Not commit any crime; however, offenses that would be  
12 excluded for sentencing purposes under United States Sentencing  
13 Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are not  
14 within the scope of this agreement.

15 f. Be truthful at all times with Pretrial Services, the  
16 United States Probation Office, and the Court.

17 g. Pay the applicable special assessment at or before the  
18 time of sentencing unless defendant lacks the ability to pay and  
19 prior to sentencing submits a completed financial statement on a form  
20 to be provided by the USAO.

21 THE USAO'S OBLIGATIONS

22 3. The USAO agrees to:

23 a. Not contest facts agreed to in this agreement.

24 b. Abide by all agreements regarding sentencing contained  
25 in this agreement.

26 c. At the time of sentencing, move to dismiss the  
27 remaining counts of the indictment as against defendant. Defendant  
28 agrees, however, that at the time of sentencing the Court may

1 consider any dismissed charges in determining the applicable  
2 Sentencing Guidelines range, the propriety and extent of any  
3 departure from that range, and the sentence to be imposed.

4 d. At the time of sentencing, provided that defendant  
5 demonstrates an acceptance of responsibility for the offense up to  
6 and including the time of sentencing, recommend a two-level reduction  
7 in the applicable Sentencing Guidelines offense level, pursuant to  
8 U.S.S.G. § 3E1.1, and recommend and, if necessary, move for an  
9 additional one-level reduction if available under that section.

10 e. At the time of sentencing, move to dismiss the  
11 information filed against defendant on May 11, 2015 pursuant to Title  
12 21, United States Code, Section 851. Defendant agrees, however, that  
13 at the time of sentencing the Court may consider the dismissed  
14 information in determining the applicable Sentencing Guidelines  
15 range, the propriety and extent of any departure from that range, and  
16 the sentence to be imposed after consideration of the Sentencing  
17 Guidelines and all other relevant factors under 18 U.S.C. § 3553(a).

18 NATURE OF THE OFFENSE

19 4. Defendant understands that for defendant to be guilty of  
20 the crime charged in count one, that is, Conspiracy to Distribute  
21 over five kilograms of Cocaine, in violation of Title 21, United  
22 States Code, Section 846, the following must be true: (1) Beginning  
23 on or about August 1, 2013 and ending on or about September 1, 2013,  
24 there was an agreement between two or more persons to distribute  
25 cocaine; and (2) The Defendant joined in the agreement knowing of its  
26 purpose and intending to help accomplish that purpose.

27 5. Defendant understands that for defendant to be subject to  
28 the statutory maximum and statutory minimum sentence set forth below,

1 the government must prove beyond a reasonable doubt that defendant  
2 conspired to distribute at least five kilograms of a mixture or  
3 substance containing a detectable amount of cocaine. Defendant  
4 admits that defendant, in fact, conspired to distribute at least five  
5 kilograms, which is approximately 48.27 kilograms, of a mixture or  
6 substance containing a detectable amount of cocaine.

7 PENALTIES

8 6. Defendant understands that the statutory maximum sentence  
9 that the Court can impose for a violation of Title 21, United States  
10 Code, Section 846, is: life imprisonment; a lifetime period of  
11 supervised release; a fine of \$10,000,000 or twice the gross gain or  
12 gross loss resulting from the offense, whichever is greatest; and a  
13 mandatory special assessment of \$100.

14 7. Defendant understands that under 21 U.S.C. § 862a,  
15 defendant will not be eligible for assistance under state programs  
16 funded under the Social Security Act or Federal Food Stamp Act or for  
17 federal food stamp program benefits, and that any such benefits or  
18 assistance received by defendant's family members will be reduced to  
19 reflect defendant's ineligibility.

20 8. Defendant understands that, absent a determination by the  
21 Court that defendant's case satisfies the criteria set forth in 18  
22 U.S.C. § 3553(f) and U.S.S.G. § 5C1.2, the statutory mandatory  
23 minimum sentence that the Court must impose for a violation of Title  
24 21, United States Code, Section 846 is: 10 years' imprisonment,  
25 followed by a 5-year period of supervised release, and a mandatory  
26 special assessment of \$100

1           9.     The Court will also order forfeiture of the property listed  
2 in the criminal forfeiture allegation of the indictment pursuant to  
3 21 U.S.C. § 853.

4           10.    Defendant understands that supervised release is a period  
5 of time following imprisonment during which defendant will be subject  
6 to various restrictions and requirements. Defendant understands that  
7 if defendant violates one or more of the conditions of any supervised  
8 release imposed, defendant may be returned to prison for all or part  
9 of the term of supervised release authorized by statute for the  
10 offense that resulted in the term of supervised release.

11           11.    Defendant understands that, by pleading guilty, defendant  
12 may be giving up valuable government benefits and valuable civic  
13 rights, such as the right to vote, the right to possess a firearm,  
14 the right to hold office, and the right to serve on a jury.  
15 Defendant understands that once the court accepts defendant's guilty  
16 plea, it will be a federal felony for defendant to possess a firearm  
17 or ammunition. Defendant understands that the conviction in this  
18 case may also subject defendant to various other collateral  
19 consequences, including but not limited to revocation of probation,  
20 parole, or supervised release in another case and suspension or  
21 revocation of a professional license. Defendant understands that  
22 unanticipated collateral consequences will not serve as grounds to  
23 withdraw defendant's guilty plea.

24           12.    Defendant understands that, if defendant is not a United  
25 States citizen, the felony conviction in this case may subject  
26 defendant to: removal, also known as deportation, which may, under  
27 some circumstances, be mandatory; denial of citizenship; and denial  
28 of admission to the United States in the future. The court cannot,

1 and defendant's attorney also may not be able to, advise defendant  
2 fully regarding the immigration consequences of the felony conviction  
3 in this case. Defendant understands that unexpected immigration  
4 consequences will not serve as grounds to withdraw defendant's guilty  
5 plea.

6 FACTUAL BASIS

7 13. Defendant admits that defendant is, in fact, guilty of the  
8 offense to which defendant is agreeing to plead guilty. Defendant  
9 and the USAO agree to the statement of facts provided below and agree  
10 that this statement of facts is sufficient to support a plea of  
11 guilty to the charge described in this agreement and to establish the  
12 Sentencing Guidelines factors set forth in paragraph 15 below but is  
13 not meant to be a complete recitation of all facts relevant to the  
14 underlying criminal conduct or all facts known to either party that  
15 relate to that conduct.

16 On or about August 30, 2013, defendant Oswaldo DeJesus  
17 Miramontes-Diaz conspired with co-defendant La Sean Louis West and  
18 others to possess with intent to distribute cocaine, a schedule II  
19 narcotic drug controlled substance. Defendant Miramontes-Diaz  
20 delivered cocaine to co-defendant West. Specifically, defendant  
21 Miramontes-Diaz met co-defendant West outside of an apartment  
22 building in Hollywood, California, within the Central District of  
23 California ("the building"). Defendant Miramontes-Diaz picked up co-  
24 defendant West in defendant Miramontes-Diaz's vehicle so that co-  
25 defendant West could allow defendant Miramontes-Diaz's vehicle's  
26 entry into the building's garage in order to deliver the  
27 approximately 48.7 kilograms of cocaine. Defendant was aware that he  
28

1 was delivering 48.7 kilograms of cocaine to a co-conspirator in an  
2 apartment within the building.

3 This apartment was later searched and law enforcement officers  
4 recovered approximately \$2.5 million in United States currency, a  
5 money counter, a digital scale with a white powdery substance, a heat  
6 sealer, cellophane, and several cell phones.

7 SENTENCING FACTORS

8 14. Defendant understands that in determining defendant's  
9 sentence the Court is required to calculate the applicable Sentencing  
10 Guidelines range and to consider that range, possible departures  
11 under the Sentencing Guidelines, and the other sentencing factors set  
12 forth in 18 U.S.C. § 3553(a). Defendant understands that the  
13 Sentencing Guidelines are advisory only, that defendant cannot have  
14 any expectation of receiving a sentence within the calculated  
15 Sentencing Guidelines range, and that after considering the  
16 Sentencing Guidelines and the other § 3553(a) factors, the Court will  
17 be free to exercise its discretion to impose any sentence it finds  
18 appropriate up to the maximum set by statute for the crime of  
19 conviction.

20 15. Defendant and the USAO agree to the following applicable  
21 Sentencing Guidelines factors:

22 Base Offense Level: 32 [U.S.S.G. § 2D1.1(c)(4)]

23 Defendant and the USAO reserve the right to argue that additional  
24 specific offense characteristics, adjustments, and departures under  
25 the Sentencing Guidelines are appropriate. Defendant understands  
26 that defendant's offense level could be increased if defendant is a  
27 career offender under U.S.S.G. §§ 4B1.1 and 4B1.2. If defendant's  
28

1 offense level is so altered, defendant and the USAO will not be bound  
2 by the agreement to Sentencing Guideline factors set forth above.

3 16. Defendant understands that there is no agreement as to  
4 defendant's criminal history or criminal history category.

5 17. Defendant and the USAO reserve the right to argue for a  
6 sentence outside the sentencing range established by the Sentencing  
7 Guidelines based on the factors set forth in 18 U.S.C. § 3553(a)(1),  
8 (a)(2), (a)(3), (a)(6), and (a)(7).

9 WAIVER OF CONSTITUTIONAL RIGHTS

10 18. Defendant understands that by pleading guilty, defendant  
11 gives up the following rights:

12 a. The right to persist in a plea of not guilty.

13 b. The right to a speedy and public trial by jury.

14 c. The right to be represented by counsel - and if  
15 necessary have the court appoint counsel -- at trial. Defendant  
16 understands, however, that, defendant retains the right to be  
17 represented by counsel - and if necessary have the court appoint  
18 counsel - at every other stage of the proceeding.

19 d. The right to be presumed innocent and to have the  
20 burden of proof placed on the government to prove defendant guilty  
21 beyond a reasonable doubt.

22 e. The right to confront and cross-examine witnesses  
23 against defendant.

24 f. The right to testify and to present evidence in  
25 opposition to the charges, including the right to compel the  
26 attendance of witnesses to testify.



1           g. The right not to be compelled to testify, and, if  
2 defendant chose not to testify or present evidence, to have that  
3 choice not be used against defendant.

4           h. Any and all rights to pursue any affirmative defenses,  
5 Fourth Amendment or Fifth Amendment claims, and other pretrial  
6 motions that have been filed or could be filed.

7                           WAIVER OF APPEAL OF CONVICTION

8           19. Defendant understands that, with the exception of an appeal  
9 based on a claim that defendant's guilty plea was involuntary, by  
10 pleading guilty defendant is waiving and giving up any right to  
11 appeal defendant's conviction on the offense to which defendant is  
12 pleading guilty.

13                           LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE

14           20. Defendant agrees that, provided the Court imposes a total  
15 imposes a term of imprisonment within or below the range  
16 corresponding to an offense level of 31 and the criminal history  
17 category calculated by the Court defendant gives up the right to  
18 appeal all of the following: (a) the procedures and calculations used  
19 to determine and impose any portion of the sentence; (b) the term of  
20 imprisonment imposed by the Court; (c) the fine imposed by the court,  
21 provided it is within the statutory maximum; (d) the term of  
22 probation or supervised release imposed by the Court, provided it is  
23 within the statutory maximum; and (e) any of the following conditions  
24 of probation or supervised release imposed by the Court: the  
25 conditions set forth in General Orders 318, 01-05, and/or 05-02 of  
26 this Court; the drug testing conditions mandated by 18 U.S.C.  
27 §§ 3563(a)(5) and 3583(d); and the alcohol and drug use conditions  
28 authorized by 18 U.S.C. § 3563(b)(7)

1           21. The USAO agrees that, provided (a) all portions of the  
2 sentence are at or below the statutory maximum specified above and  
3 (b) the Court imposes a term of imprisonment within or above the  
4 range corresponding to an offense level of 31 and the criminal  
5 history category calculated by the Court, the USAO gives up its right  
6 to appeal any portion of the sentence.

7                           RESULT OF WITHDRAWAL OF GUILTY PLEA

8           22. Defendant agrees that if, after entering a guilty plea  
9 pursuant to this agreement, defendant seeks to withdraw and succeeds  
10 in withdrawing defendant's guilty plea on any basis other than a  
11 claim and finding that entry into this plea agreement was  
12 involuntary, then (a) the USAO will be relieved of all of its  
13 obligations under this agreement; and (b) should the USAO choose to  
14 pursue any charge or any allegation of a prior conviction for a  
15 felony drug offense that was either dismissed or not filed as a  
16 result of this agreement, then (i) any applicable statute of  
17 limitations will be tolled between the date of defendant's signing of  
18 this agreement and the filing commencing any such action; and  
19 (ii) defendant waives and gives up all defenses based on the statute  
20 of limitations, any claim of pre-indictment delay, or any speedy  
21 trial claim with respect to any such action, except to the extent  
22 that such defenses existed as of the date of defendant's signing this  
23 agreement.

24                           EFFECTIVE DATE OF AGREEMENT

25           23. This agreement is effective upon signature and execution of  
26 all required certifications by defendant, defendant's counsel, and an  
27 Assistant United States Attorney.

BREACH OF AGREEMENT

24. Defendant agrees that if defendant, at any time after the signature of this agreement and execution of all required certifications by defendant, defendant's counsel, and an Assistant United States Attorney, knowingly violates or fails to perform any of defendant's obligations under this agreement ("a breach"), the USAO may declare this agreement breached. All of defendant's obligations are material, a single breach of this agreement is sufficient for the USAO to declare a breach, and defendant shall not be deemed to have cured a breach without the express agreement of the USAO in writing. If the USAO declares this agreement breached, and the Court finds such a breach to have occurred, then: (a) if defendant has previously entered a guilty plea pursuant to this agreement, defendant will not be able to withdraw the guilty plea and (b) the USAO will be relieved of all its obligations under this agreement.

25. Following the Court's finding of a knowing breach of this agreement by defendant, should the USAO choose to pursue any charge or any allegation of a prior conviction for a felony drug offense that was either dismissed or not filed as a result of this agreement, then:

a. Defendant agrees that any applicable statute of limitations is tolled between the date of defendant's signing of this agreement and the filing commencing any such action.

b. Defendant waives and gives up all defenses based on the statute of limitations, any claim of pre-indictment delay, or any speedy trial claim with respect to any such action, except to the extent that such defenses existed as of the date of defendant's signing this agreement.

1           c. Defendant agrees that: (i) any statements made by  
2 defendant, under oath, at the guilty plea hearing (if such a hearing  
3 occurred prior to the breach); (ii) the agreed to factual basis  
4 statement in this agreement; and (iii) any evidence derived from such  
5 statements, shall be admissible against defendant in any such action  
6 against defendant, and defendant waives and gives up any claim under  
7 the United States Constitution, any statute, Rule 410 of the Federal  
8 Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal  
9 Procedure, or any other federal rule, that the statements or any  
10 evidence derived from the statements should be suppressed or are  
11 inadmissible.

12                           COURT AND PROBATION OFFICE NOT PARTIES

13           26. Defendant understands that the Court and the United States  
14 Probation Office are not parties to this agreement and need not  
15 accept any of the USAO's sentencing recommendations or the parties'  
16 agreements to facts or sentencing factors.

17           27. Defendant understands that both defendant and the USAO are  
18 free to: (a) supplement the facts by supplying relevant information  
19 to the United States Probation Office and the Court, (b) correct any  
20 and all factual misstatements relating to the Court's Sentencing  
21 Guidelines calculations and determination of sentence, and (c) argue  
22 on appeal and collateral review that the Court's Sentencing  
23 Guidelines calculations and the sentence it chooses to impose are not  
24 error, although each party agrees to maintain its view that the  
25 calculations in paragraph 13 are consistent with the facts of this  
26 case. While this paragraph permits both the USAO and defendant to  
27 submit full and complete factual information to the United States  
28 Probation Office and the Court, even if that factual information may

1 be viewed as inconsistent with the facts agreed to in this agreement,  
2 this paragraph does not affect defendant's and the USAO's obligations  
3 not to contest the facts agreed to in this agreement.

4 28. Defendant understands that even if the Court ignores any  
5 sentencing recommendation, finds facts or reaches conclusions  
6 different from those agreed to, and/or imposes any sentence up to the  
7 maximum established by statute, defendant cannot, for that reason,  
8 withdraw defendant's guilty plea, and defendant will remain bound to  
9 fulfill all defendant's obligations under this agreement. Defendant  
10 understands that no one -- not the prosecutor, defendant's attorney,  
11 or the Court -- can make a binding prediction or promise regarding  
12 the sentence defendant will receive, except that it will be within  
13 the statutory maximum.

14 NO ADDITIONAL AGREEMENTS

15 29. Defendant understands that, except as set forth herein,  
16 there are no promises, understandings, or agreements between the USAO  
17 and defendant or defendant's attorney, and that no additional  
18 promise, understanding, or agreement may be entered into unless in a  
19 writing signed by all parties or on the record in court.

20 //

21 //

22 //

PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

30. The parties agree that this agreement will be considered part of the record of defendant's guilty plea hearing as if the entire agreement had been read into the record of the proceeding.

AGREED AND ACCEPTED

UNITED STATES DEPARTMENT OF  
JUSTICE, CRIMINAL DIVISION,  
NARCOTIC AND DANGEROUS DRUG  
SECTION

ARTHUR WYATT  
Chief

AMANDA N. LISKAMM  
Trial Attorney

4/14/16  
Date

OSWALDO DE JESUS MIRAMONTES-DIAZ  
Defendant

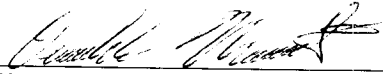
2-1-16  
Date

ROGER SHAFER  
Attorney for Defendant, OSWALDO DE  
JESUS MIRAMONTES-DIAZ

2-1-16  
Date

CERTIFICATION OF DEFENDANT

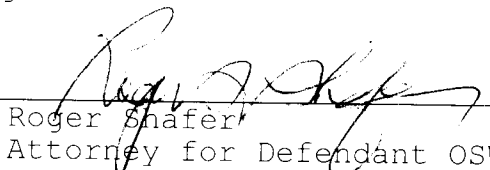
I have read this agreement in its entirety. I have had enough time to review and consider this agreement, and I have carefully and thoroughly discussed every part of it with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. I have discussed the evidence with my attorney, and my attorney has advised me of my rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. No promises, inducements, or representations of any kind have been made to me other than those contained in this agreement. No one has threatened or forced me in any way to enter into this agreement. I am satisfied with the representation of my attorney in this matter, and I am pleading guilty because I am guilty of the charges and wish to take advantage of the promises set forth in this agreement, and not for any other reason.

  
OSWALDO DE JESUS MIRAMONTES-DIAZ  
Defendant

2-1-16  
Date

CERTIFICATION OF DEFENDANT'S ATTORNEY

I am OSWALDO DE JESUS MIRAMONTES-DIAZ's attorney. I have carefully and thoroughly discussed every part of this agreement with my client. Further, I have fully advised my client of his rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. To my knowledge: no promises, inducements, or representations of any kind have been made to my client other than those contained in this agreement; no one has threatened or forced my client in any way to enter into this agreement; my client's decision to enter into this agreement is an informed and voluntary one; and the factual basis set forth in this agreement is sufficient to support my client's entry of a guilty plea pursuant to this agreement.

  
\_\_\_\_\_  
Roger Shaffer  
Attorney for Defendant OSWALDO DE  
JESUS MIRAMONTES-DIAZ

2-1-16  
\_\_\_\_\_  
Date